

JUNE 19, 1995

MARYSVILLE CITY COUNCIL
7:00 P.M.

COUNCIL CHAMBERS

Present:

Mayor Dave Weiser
Councilmembers:
 Shirley Bartholomew
 Ken Baxter
 Otto Herman
 Mike Leighan
 John Myers
 Donna Pedersen - Mayor Pro Tem
 Donna Wright

CORRECTED: SEE 6/26/95
MINUTESAdministrative Staff:

Mary Swenson, Assistant to City Administrator/City Clerk
 Gloria Hirashima, City Planner
 Bob Dyer, Chief of Police
 Walt McKinney, Assistant Chief of Police
 Tom Graafstra, Legal Counsel
 Lillie Lein, Recording Secretary

Mayor Weiser opened the meeting and led the pledge of allegiance at 7:00 p.m.

Assistant City Administrator/City Clerk Swenson called the roll with all members present.

Public Hearing:

Mayor Weiser opened the public hearing on adult entertainment by calling on Legal Counsel Tom Graafstra. Mr. Graafstra stated that the City Council passed Ordinance No. 2022, establishing a moratorium on the acceptance of applications for use permits, building permits, and licenses for adult entertainment facilities. Ordinance No. 2022 required the Mayor to appoint citizens to sit on an Adult Use Study committee to initially prepare a work plan, and subsequently to report and make recommendations to the administration and the City Council on adult use businesses. Ordinance No. 2022 required submittal of a work plan by June 5, 1995, and scheduled a public hearing to occur no later than June 19, 1995 to consider the justification for continuance or rescission of the moratorium. The purpose of this hearing is to take testimony regarding adult entertainment facilities and subsequently decide whether to continue or rescind the moratorium.

Assistant City Administrator/City Clerk Mary Swenson reviewed the current licensing requirements noting that they are covered under several sections of the Marysville Municipal Code: Chapter 5.20 entitled "Entertainment Clubs", Chapter 6.30 entitled "Public Indecency-Prostitution-Sex Crimes", and Title 19 the Zoning Code.

She noted that entertainment clubs require a business license and added that the current ordinance deals with both adult and teen clubs. When a business license is applied for, as the City Clerk, she would review the application with the Planning Department to see if they meet the zoning requirements. Currently they are only allowed in a general industrial zone with a conditional use permit. The application would also be reviewed by the Police Department.

Ms. Swenson noted that Chapter 6.30 of the M.M.C. regulates the stage area, i.e. the distance between the stage and patrons, height of stage.

Chapter 5.20.050(9) regulates illumination of all portions of club premises. Ms. Swenson reviewed other regulations under Chapter 5.20.050 and referred to Everett and other cities which have recently reviewed their codes regarding adult entertainment.

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Zoning requirements are contained within Title 19 of the M.M.C. If a zoning violation were found, a letter would be sent to the owner notifying him of the zoning violations and setting a public hearing date before City Council.

Ms. Swenson read the title of adult facilities included in the municipal code and explained that a book store fell under this category when 10% or more of the material in the store consists of books, magazines, posters, pictures, periodicals or other printed material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas". Also, video stores cannot have more than 10% of their stock in trade in x-rated videos or they would also fall under the adult entertainment regulations.

Ms. Swenson reviewed three recent public disclosure requests for information regarding adult entertainment received by the City since March of this year:

1. Phil McKibben, who owns Honeys, an erotic dance club in South Everett, specifically requested Marysville code information addressing licensing and location of adult entertainment clubs. Ms. Swenson noted that he seemed very pleased with Marysville's code and did not feel it would be a problem locating this type of business in Marysville.
2. On March 2, Gilbert Levy, attorney for Mr. McKibben, requested the same information as Mr. McKibben.
3. On May 3, Matinee Video requested Marysville code information that limits the number of adult video tapes for stock in trade.

Due to the increased interest in adult entertainment requirements, staff felt the code should be reviewed.

Councilmember Bartholomew complimented staff on the material which Council received noting that it was quite thorough. She referred to Judge Zilly's decision on zoning in a case with the City of Kent and asked how that related to Marysville. Mr. Graafstra stated that it is because of cases such as this that Marysville is reviewing their code. Mayor Weiser noted that the committee reviewing Marysville's regulations will make recommendations to the Planning Commission and the Planning Commission will then make recommendations to the City Council. Councilmember Bartholomew stated that she wanted the zoning codes reviewed with reference to distance from particular facilities, i.e. child and adult day care centers, recreational facilities including Little League fields as well as peep shows and panoramas.

City Planner Hirashima reviewed zoning regulations. She noted that currently the city has only six parcels where a person could apply for an adult entertainment facility with a conditional use. Of these, two had commercial operations on them, two had residents, and two were vacant. The total for all six sites was 21.2 acres.

Ms. Hirashima explained that Snohomish County zoning codes were different from Marysville in that they permit these type of facilities out-right. She noted that Mr. McKibben has applied for a building permit just north of 152nd Street. This area falls within the proposed North Marysville annexation. She explained that, should Mr. McKibben complete the building permit process before the area is annexed, he would be grandfathered in. It was noted that he is currently being required to do a traffic study. If he was not successful in completing the building permit process before annexing into the City, he would have to start the permit process over again with the City.

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Councilmember Leighan inquired whether, if grandfathered in, Mr. McKibben would have to operate under the Marysville Municipal Code? Mr. Graafstra said he would.

Ms. Hirashima noted that, in addition to applying for a conditional use, adult entertainment facilities could not be located within 1000 ft. of single family resident, multi-family resident, public or private school, religious facility, parks, or public recreational facility.

Finally, she stated that there currently are no adult entertainment facilities operating within the City. The code has been in force since 1989 and the City has received no applications to-date.

Police Chief Dyer gave a brief background of previous vice violations of the current code. He then showed a video from that night's 5:00 p.m. news telecast regarding a DejaVu club in Tukwila and that City's efforts to regulate them. Chief Dyer stated with an adult entertainment club in the City, the City would see more prostitution and drugs. He said that Marysville has not had very much experience with vice activity and so he asked Sergeant Steve Uram of the Everett Police Department to speak.

Sergeant Steve Uram explained that he was with the Everett Police Department assigned to special investigations including vice investigations for the City of Everett and Snohomish County. He stated that with respect to Deja Vu in Everett his unit has made 30 arrests in the last eleven months ranging from civil disturbances, vehicle prowls, vandalism to vehicles and long term drug investigations. He stated that he could not speak to traffic or alcohol problems due to other establishments in the same area but that they do have narcotics violations and prostitution on and off the premises. He said that you could expect an increase in prostitution noting that Everett has had 40 arrests for prostitution since January.

Sergeant Uram stated that Everett has had search warrants for nine out of the eleven massage parlors operating in Everett. Not all have been to court yet but those that have have gotten convictions for prostitution.

Councilmember Bartholomew asked if employees in these clubs are on a regular circuit. Sergeant Uram said they were further noting that there were six Deja Vu clubs in the state of Washington.

Councilmember Bartholomew asked about licensing requirements. Sergeant Uram said the fees for dancers was \$55, a club license was \$450, and managers are also required to be licensed for a fee of \$55.

Councilmember Pedersen asked if it was unusual for adult entertainment clubs to be connected to organized crime? Sergeant Uram said he felt there might be a connection. She then asked if this was typically the first type of activity for organized crime coming into an area? Sergeant Uram said it was.

Ms. Swenson referred to Chapter 5.72 of the M.M.C. which regulates massage parlors and massage therapists. She reviewed these regulations and noted that an entertainment license asks for a disclosure statement from the applicant in regard to convictions of specific crimes such as prostitution, etc. but that the City cannot fingerprint applicants or do a background check.

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Councilmember Pedersen asked if a legitimate massage therapist could hire others who were not licensed to do massages? Ms. Swenson said, "No, each must have their own license from the State."

Sergeant Uram stated that most problems they are having are with bath house attendants giving massages under the license of one massage therapist who may or may not be on the premises.

There being no further public testimony, Mayor Weiser closed the public testimony portion of the hearing.

Councilmember Leighan asked if we have requested Arlington's regulations on adult entertainment. Ms. Swenson said we have but have not yet received them.

Councilmember Bartholomew said, based on information received tonight from law enforcement, the City Clerk and the advice of the City Attorney, she moved to adopt Ordinance 2034 of the City of Marysville continuing a moratorium established by Ordinance No. 2022 relating to land use, zoning, and business licensing of adult entertainment businesses. Councilmember Pedersen seconded the motion. The motion carried unanimously.

In addition to adopting the ordinance, Councilmember Pedersen asked that staff particularly review zoning regulations in regard to distance from such facilities as child and adult day care centers and parks and public recreation areas.

~~Councilmember Herman wanted to note that in the past issues are sometimes decided by the market but that sometimes, as in this case, it is important to be the one to set the market trend rather than follow.~~

ADJOURNMENT INTO EXECUTIVE SESSION: 7:55 p.m.

1. Litigation **No Action.**

RECONVENED & ADJOURNED:

Accepted this 26th day of June, 1995.

David Weiser
MAYOR

Mary Swenson
CITY CLERK

Lillie Lein
RECORDING SECRETARY

CONNECTED: SEE 6/26/95
MANIP delete